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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,140	12/23/2005	Yoshifumi Adachi	12480-000155/US	5533
30593 7590 01/24/2008 HARNES, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER REDDY, KARUNA P	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 01/24/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/562,140	Applicant(s) ADACHI ET AL.	
	Examiner Karuna P. Reddy	Art Unit 1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attachment. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-10 and 12-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Karuna Reddy/

Attachment to Advisory Action

1. Applicants' amendment filed 12/28/2007 has been fully considered; however, the amendment has not been entered given that it introduces new issues/new matter and new claims (22-23) that would require further consideration and/or search.
2. With respect to other new issues, claim 1 introduces the new limitation "extraction rate of the multivalent metal component around a surface of said particulate water absorbent is 5.0 wt% or more and less than 70 wt%. It is the examiner's position that this is a new issue since it limits the extraction rate of the multivalent metal component around a surface of said water absorbent resin to 5.0 wt% or more and less than 70 wt%". With respect to new matter, the amendment to claim 1 is not supported by specification on page 41, lines 3-12 i.e. extraction rate is 5.0 wt% or more and less than 100 wt%; preferably 10.0 wt% or more and 70.0 wt% or less. Thus a recitation of "5.0 wt% or more and less than 70 wt%" is new matter.

Response to Arguments

3. Applicant's arguments filed 12/28/2007 have been fully considered but they are not persuasive. Specifically, applicant argues that (A) water absorbent resin used in examples and comparative runs is the same and therefore the comparison is appropriate; (B) Mertens does not teach or suggest a method

wherein the multivalent metal component is added to a water absorbent resin with a crosslinked surface; and (C) Mertens does not teach a concentration of 0.40 or more for the multivalent metal component.

With respect to (A), it is the examiner's position that while the water absorbent resin used in examples 5, 6 and comparative runs 7 and 8 is the same, water absorbent resin is treated with other components and under different conditions i.e. the trials are not back-to-back.

With respect to (B), examiner points applicant to example 1 of Mertens et al, wherein the polymer is crosslinked. Following drying and screening to a particle size of 150-850 mm, a solution containing aluminum sulfate 14-hydrate i.e. multivalent metal component is added.

With respect to (C), see page 6, lines 8-12 of office action mailed 9/28/2007.

January 22, 2008

/Karuna Reddy/

/Vasu Jagannathan/
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